



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/210,490    12/11/98    WEAVER    E    P03592US0

HM12/0718  
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EXAMINER

EWOLDT, G

ART UNIT

PAPER NUMBER

1644

DATE MAILED:

07/18/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

09/210,490

Applicant(s)

WEAVER ET AL.

Examiner

EWOLDT

Group Art Unit

1644

## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 4 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 7/6/00 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The proposed amendment to Claim 10 raises new issues that would require further consideration. Specifically, in lines 3 and 4 the claim is limited to "pigs", however line 2 recites "animals", thus the claim is indefinite.

- ☐ Applicant's response has overcome the following rejection(s): Also, see attachment.

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):Claims allowed: noneClaims objected to: noneClaims rejected: 10-12, 14, 22-31

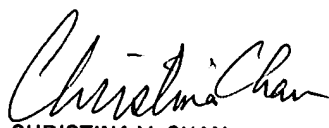
- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Other

EWOLDT 7/11/00

**DETAILED ACTION**

1. Applicant's amendment, filed 7/6/2000, is acknowledged. Claims 10-12, 14 and 22-31 are pending.
2. Claim 14 stands rejected under 35 U.S.C. § 112, second paragraph, for the same reasons set forth in Paper No. 8.  
Should amended claim 10 be entered, Claim 14 would be rejected as indefinite for the reasons set forth in the Advisory Action.
3. Claims 10-12, 14, and 22-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stott et al. (U.S. Patent No. 4,816,252, IDS) in view of Watanabe (Japan Patent No. 61-132143, IDS) and Elliot et al. (U.S. Patent No. 4,623,541, IDS), all of record, for the same reasons set forth in Paper No. 8.
4. Applicant's arguments filed 7/6/00 have been fully considered but they are not persuasive. Applicant argues that the invention is patentable in that the water stable globulin concentrate containing at least 15%IgG is given to animals through their water source post-weaning (emphasis by Applicant) and that the primary (Stott et al.) reference does not teach these very specific limitations. As previously stated, it is the Examiner's opinion that the claimed invention is obvious in view of the cited case law, that the Examiner has established such, and that the motivation for said invention was provided by the prior art and not Applicant's disclosure. While the '252 patent does not teach the specific limitations, they do fall within the limitations taught by the secondary references. Watanabe teaches the use of Ig feed supplements to promote weight gain in pigs post-weaning (see Abstract) and the '541 patent teaches the use of Ig supplements within the claimed ranges (see particularly Examples 1-2 and Table 1). Thus the entire claimed invention, including the claimed limitations, have been taught or suggested by the prior art.
5. Any inquiry concerning this communication or earlier communications should be directed to Dr. Gerald Ewoldt whose telephone number is (703) 308-9805. The Examiner can normally be reached Monday through Thursday and alternate Fridays from 7:30 am to 5:30 pm. A message may be left on the Examiner's voice mail service. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196. The CM1 Fax Center telephone number is (703) 305-3014.

G. R. Ewoldt, Ph.D.  
Patent Examiner  
Technology Center 1600  
July 11, 2000

  
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